Public Hearing for Comments on the Draft Act Amending the Revenue Code (No. ...)
B.E. ..... to Support Collection of Taxes from e-Business Operators

1. **Nature and cause of the problem**

   1.1 As the current technological development enables entrepreneurs situated overseas to operate businesses in another country conveniently through electronic means, making goods purchasing and services provision from entrepreneurs through electronic channels to become popular for the time being. Currently, however, collection of taxes from said entrepreneurs can be made restrictively due to matters of law, thus impacting upon the state revenue collection and causing unfairness in tax burden between domestic entrepreneurs and overseas entrepreneurs.

   1.2 The Revenue Code provides that goods classified in sector governing goods exempted from duties under the law governing customs tariff to be exempted from value-added tax. Currently, the Customs Department provided that each imported goods with a price not exceeding 1,500 Baht would be exempted from duty as per Category 12 Part IV of the Customs Tariff Decree B.E. 2530, which caused goods imported from overseas via mail with a price not exceeding 1,500 Baht were exempted from value-added tax as well. Currently, goods with a value not exceeding 1,500 Baht were widely imported from overseas via mail, resulting in unfairness in competition of domestic entrepreneurs who had to pay value-added tax even if they were selling goods with a price lower than 1,500 Baht.

2. **The necessity to enact the law**

   To ensure proper and thorough collection of tax from overseas entrepreneurs selling goods or providing services to buyers in Thailand via electronic means, including collection of value-added tax on goods imported via mail, which would promote fair competition between domestic entrepreneurs and overseas entrepreneurs, it is necessary to adjust the Revenue Code to suit the current business pattern.

3. **Essential principles**

   3.1 To deem any juristic person established under foreign laws, operating a business through electronic means, and such business operation falls under either of the following natures which generates earnings or profits in Thailand, as operating the business in Thailand and is required to pay income tax in Thailand specifically in respect of said earnings or profits.

   (1) Using a local domain of Thailand;

   (2) Creating a payment system in Thai currency or transferring money from Thailand;

   (3) Other cases as determined by the Director-General.
3.2 To require any juristic person established under foreign laws, operating a business through electronic means, and does not operate the business in Thailand, but earns assessable incomes from said business operation, which incomes are categorized as on-line advertisement fees, website space utilization fees, or what to be determined by ministerial regulation, the payer shall deduct income tax from such payment at the rate of 15 per cent and remit it to the Revenue Department.

3.3 To require any entrepreneur situated outside the Kingdom, selling intangible goods or providing services through electronic means to buyers or service recipients other than value-added tax registrants, it earning more than 1.8 million Baht per year from selling such goods or providing such services, to apply for value-added tax registration and to pay value-added tax, in accordance with rules, procedures and conditions prescribed by the Director-General.

3.4 In case any entrepreneur situated outside the Kingdom sold intangible goods or provided services via a website or application of other party, the owner of the website or the application shall be deemed agent of the entrepreneur and shall be required to apply for value-added tax registration on the entrepreneur’s behalf, and, once registered, shall have the same rights, duties and liabilities as those of the entrepreneur.

3.5 To cancel the exemption from value-added tax for goods with a price lower than 1,500 Baht imported via mail.

4. Issues for which comments are sought

Essential principles of the Draft Act Amending the Revenue Act (No. ...) B.E. ..... to support collection of taxes from e-Business operators.

In this regard, the Revenue Department wishes to invite agencies in the Government Sector and the Private Sector, including the general public, to provide comments and recommendations on said draft act through the website of the Revenue Department within 11 July 2017.